Relations, Telemundo Network, Inc. In the Gaulke Letter, Mr. Parker stated that, in the *San Bernardino Proceeding*:

> the FCC Review Board upheld the finding by an Administrative Law Judge that I was an undisclosed real-party-in-interest to the application of [SBBLP], arising wholly from events which occurred in 1983 and 1984. [citation omitted] Although I was retained only to serve as a consultant (a role which I believe I fulfilled), the Administrative Law Judge concluded that my selection of the general partner of the applicant, recruitment of the financial interests as limited partners, assembly of the application and maintenance of control over the financial affairs of the applicant made me the real-part-in-interest, and thus disqualified the limited partnership as an applicant. I testified at length before the FCC, and nowhere was I found to have made misrepresentations or lacked candor before the agency.

Bureau Exh. 1, pp. 9-10.

403. In the Gaulke Letter, Mr. Parker then described the *Mt. Baker Proceeding* as follows:

> In the [*Mt. Baker Proceeding*], I was a principal in Mt. Baker Broadcasting Company, Inc., permittee of commercial television station KORC, Anacortes, Washington. The time in which to build this station was expiring in 1986, and the likelihood of completing construction of the high-power station on the intended site -- the peak of a mountain which was part of a national park area -- was remote. Acting on advice of KORC's communications legal counsel, KORC built a much lower power television facility on top of the peak, and filed for a license. The FCC rejected the attempt to license the lower-power facility in lieu of the proposed 5,000 kW facility, and order the facility taken off the air in June 1987. Mt. Baker complied with the order, but filed a request for reconsideration of the cancellation of the construction permit. In an order upholding cancellation of the construction permit, the Commission held that station's construction of a facility lesser than that proposed without filing documentation with the Commission showing that such a lesser facility had been built evinced an intention on the part of the permittee to deceive the Commission. [citation omitted]

Id., p. 10.

404. The Gaulke Letter also contains a description of another proceeding involving

competing applications for a television authorization in Tolleson, Arizona:

> In the referenced Tolleson, Arizona, proceeding, my consulting activities on behalf of an applicant for a new commercial television station were found by the FCC Administrative Law Judge to be too pervasive for the Commission to give the applicant any comparative credit under the Commission's then-existing criteria for judging such applicants. [citation omitted] The Administrative Law Judge did not find that the applicant, its principal or I had made misrepresentations or otherwise lacked the character qualifications to be FCC licensees, but rather merely that that applicant's claim of comparative merit was not to be credited.

Id.

405. In the Gaulke Letter, Mr. Parker then stated that, since the time of the *Mt. Baker*, *San Bernardino*, and Tolleson proceedings, he had had his qualifications "passed on" by the Commission three times, referring to the KVMD(TV) Application, the WTVE(TV) Application and the WHRC(TV) Application. *Id.* According to Mr. Parker, "[i]n none of those applications did the FCC elect to address any alleged defects in character on my part, despite the fact that I reported the San Bernardino, Tolleson and Anacortes matters in the three applications." *Id.*, pp. 10-11.

406. Mr. Parker's description of the *San Bernardino Proceeding* in the Gaulke Letter is dramatically different from his description of that matter in the WHRC(TV), WTVE(TV), KVMD(TV) and KCBI Applications. It is also at odds with the Wadlow Letter. None of those earlier documents even mentioned, much less described in detail, the fact that Mr. Parker's real-party-in-interest misconduct led to disqualification in the *San Bernardino Proceeding*.

407. Similarly, the description of the *Mt. Baker Proceeding* in the Gaulke Letter differs from the descriptions in Mr. Parker's applications in that the Gaulke Letter

specifically states that Mr. Parker's corporation was found, in Mt. Baker, to have engaged in intentional deception of the Commission.

408. Mr. Parker was examined about the Gaulke Letter. He testified that the letter had been prepared by unidentified members of his staff and his communications counsel, and he had read it before he signed it. Tr. 2629, 2679. Asked whether his description of the *San Bernardino Proceeding* as set out in the Gaulke Letter was accurate, Mr. Parker claimed that that language was not intended to describe the facts of the *San Bernardino Proceeding*. Rather, according to Mr. Parker, the Gaulke Letter was intended only to reflect allegations which had been raised against Mr. Parker by Shurberg Broadcasting of Hartford ("Shurberg") in another proceeding. Tr. 2620-2626. He also stated that the descriptions of the Tolleson and *Mt. Baker* matters were similarly intended merely to "outlin[e] the allegations by Mr. Shurberg". Tr. 2683.

409. The language of the Gaulke Letter does not support the spin which Mr. Parker tried to impart to it. Nothing in the descriptions of *San Bernardino*, *Mt. Baker* or Tolleson contained in the Gaulke Letter even began to suggest that those descriptions were intended to be restatements of allegations made by one of Mr. Parker's adversaries. To the contrary, Mr. Parker acknowledged the accuracy of the Tolleson and *Mt. Baker* descriptions, Tr. 2627, 2641-2643. He also conceded that at least some of the description of the *San Bernardino Proceeding* in the Gaulke Letter was ***not*** based on any allegations made against him, but rather was the product of his own thoughts. Tr. 2677. Mr. Parker's efforts to re-cast the Gaulke Letter as reflecting opinions inconsistent from his own were not credible.

410. Mr. Parker's lack of credibility was aggravated by a number of other factors.

411. First, review of the Shurberg pleadings demonstrates that Shurberg argued extensively that Mr. Parker's representations to the Commission in connection with the KCBI Application raised serious questions about Mr. Parker's qualifications. [78/] But the Gaulke Letter contained no reference at all to the KCBI Application. Confronted with this fact, Mr. Parker stated that the KCBI matter must have "slipped through the cracks". Tr. 2685. The fact that it was the KCBI Application which supposedly "slipped through the cracks" is significant. In the Gaulke Letter, Mr. Parker emphasized that, in processing the WHRC(TV), WTVE(TV) and KVMD(TV) Applications, the Commission's staff did not "elect to address any alleged defects in character on my part." Bureau Exh. 1, pp. 10-11. But the staff ***did*** raise such questions in connection with the KCBI Application, a fact which led to the preparation and filing of the misleading Dallas Amendment. By omitting reference to the KCBI Application, Mr. Parker was able also to omit reference to the Dallas Amendment.

412. Mr. Parker's testimony about the Gaulke Letter further eroded his credibility.

413. According to Mr. Parker, the Gaulke Letter was prepared in connection with a private securities offering. Tr. 2630. Because of that, he understood that he was obligated to provide full disclosure of all information of any potential consequence. *E.g.*, Tr. 2622, 2663. But he failed to include in the Gaulke Letter any mention of the KCBI Application which, as noted above, had been addressed in detail in the Shurberg pleadings.

[78/] While no Shurberg pleadings were presented as exhibits herein, RBI submitted copies of Shurberg pleadings as attachments to its August 11, 1999, Opposition to Motion to Enlarge Issues. Those Shurberg pleadings are thus available in the docket of this proceeding for inspection by the Presiding Judge and the parties.

414. Similarly, in the Gaulke Letter Mr. Parker wrote that the Tolleson proceeding had been fully disclosed to the Commission in the WHCT(TV), WTVE(TV) and KVMD(TV) Applications. Bureau Exh. 1, pp. 10-11. That was simply not true, as Mr. Parker conceded on the witness stand. Tr. 2666.

415. Similarly, in the Gaulke Letter Mr. Parker stated that, in the *Mt. Baker Proceeding*, the permittee had "filed for a license", although the Commission "rejected the attempt to license" the facilities which the permittee had constructed. Bureau Exh. 1, p. 10. But as the Commission's decision in the *Mt. Baker Proceeding* makes abundantly clear, and as Mr. Parker conceded, Tr. 2642, the permittee in the *Mt. Baker Proceeding* did not file a license application. The Commission's decision states that Mt. Baker did not file ***any other*** kind of application seeking Commission approval of the facilities which had been built.

416. Clearly, the Gaulke Letter did not provide "full disclosure" of either Mr. Parker's history before the Commission or, even if his testimony were to be credited, the allegations advanced by Shurberg. Mr. Parker's insistence, in his testimony, that the Gaulke Letter was intended to provide full disclosure as required by laws governing securities transactions establishes either that Mr. Parker is not telling the truth now or that his willingness and ability to provide truthful "full disclosure" when so required, *e.g.*, to Ms. Gaulke pursuant to securities regulations, are stunted at best.

417. Mr. Parker's testimony concerning the Gaulke Letter brought into sharp relief Mr. Parker's attitude toward his obligations to disclose information to the Commission. He repeatedly emphasized that, in the context of a securities transaction, it was important to disclose "all the bad things that can go wrong." *E.g.*, Tr. 2622, 2629-2630.

418. And yet, as flawed and inaccurate as the Gaulke Letter was, its descriptions of the *San Bernardino Proceeding* and the *Mt. Baker Proceeding* were vastly closer to the truth than anything that Mr. Parker told the Commission in any of his applications between 1989 and 1992. The Presiding Judge remarked on this:

> JUDGE SIPPEL: So you think that's what your duty is? Your duty is to give [the Commission's staff] just enough so that if they have any more questions they can come back and ask you?
>
> THE WITNESS: No.
>
> JUDGE SIPPEL: That's what I am hearing.
>
> THE WITNESS: No, that isn't want I said. Okay? What I am saying is we explained the issue in terms of outlining the memorandum and opinion orders on each of the cases, and the Commission staff has come back and asked questions. They came back and asked questions of me in KIAJ where we filed an amendment which I testified extensively on in the record.

Tr. 2652. The amendment referred to by Mr. Parker in his last-quoted response was the Dallas Amendment which, as discussed above, was plainly inaccurate. *See, e.g.*, Paragraphs 347-358, above.

419. The evidence adduced in connection with the Gaulke Letter, then, undermines RBI's case in several respects. It demonstrates that at least some of Mr. Parker's counsel did not necessarily agree with the view that no basic qualifying issue had been resolved adversely to Mr. Parker in the *San Bernardino Proceeding*. It demonstrates that, even when he claims to have been providing full disclosure to Ms. Gaulke as required by securities law, Mr. Parker was unwilling or unable to do so. It demonstrates that, even with respect to matters which Mr. Parker purported to disclose to Ms. Gaulke, his disclosure was substantially inaccurate. And finally, Mr. Parker's testimony about the Gaulke Letter

strongly discloses an effort by Mr. Parker to be less than candid and forthright in this very proceeding.

F. SUMMARY OF FINDINGS AND PRELIMINARY FACTUAL CONCLUSIONS CONCERNING PHASE II EVIDENCE

420. In 1988, Mr. Parker was found to have engaged in fraudulent or deceitful misconduct before the Commission in two separate proceedings, the *Mt. Baker Proceeding* and the *San Bernardino Proceeding*. The language of the *San Bernardino Review Board Decision* in particular was especially harsh, unforgiving, and directed unmistakably toward Mr. Parker. Mr. Parker was well aware of the agency's decision in both of those proceedings. He was in a position to assure that the information in those applications was complete and accurate.

421. Eight months later, the KWBB(TV) Application -- prepared in part by Mr. Parker and executed by his employee and apparent co-resident, Ms. Ellertson -- failed even to mention, much less describe, the *San Bernardino Proceeding*. The KWBB(TV) Application did mention the *Mt. Baker Proceeding*, but in a manner which did not even suggest, much less describe forthrightly, the facts and circumstances underlying the *Mt. Baker Proceeding* and the Commission's conclusion that Mr. Parker had there engaged in an effort to deceive the Commission.

422. Mr. Parker adopted precisely the same misleading approach in the "disclosures" in his Los Angeles LPTV Application filed in December, 1989.

423. Mr. Parker was unable to provide a coherent, credible explanation for his failure even to mention the *San Bernardino Proceeding* in either of those applications. While

he claimed to have relied on counsel in the preparation of these applications, his then-counsel did not corroborate this testimony.

424. In February, 1991, in pursuing Ms. Shaw's KCBI application, Mr. Parker learned that the fact that real-party-in-interest allegations had been favorably resolved in a hearing proceeding did ***not*** mean that such allegations were no longer of interest to the Bureau. To the contrary, he learned that such allegations were very much a matter of continuing Bureau concern.

425. In Ms. Shaw's case, Judge Luton had summarily rejected the real-party-in-interest allegations and had expressly found Ms. Shaw to be qualified. By contrast, in the *San Bernardino Proceeding*, Judge Gonzalez had added the real-party-in-issue against SBBLP and Mr. Parker and had resolved that issue adversely to SBBLP and Mr. Parker. The Review Board had adopted Judge Gonzalez's findings and conclusions, had expressly found no error in Judge Gonzalez's conclusions under the real-party-in-interest issue, and had used unusually harsh language in so doing.

426. Thus, when Mr. Parker learned in February, 1991, that the Bureau would not act on Ms. Shaw's KCBI application because of concerns about potential real-party-in-interest misconduct arising out of the Avalon proceeding, Mr. Parker could not have missed the implications for his own situation. If the Bureau was willing to delay action on Ms. Shaw's KCBI application pending inquiry into real-party-in-interest allegations which had already been considered and disposed of favorably to Ms. Shaw, Mr. Parker could not have expected any different treatment if the complete adverse record of the *San Bernardino Proceeding* were to be fully disclosed.

427. Mr. Parker's awareness of Ms. Shaw's on-going predicament increased from the inception of that awareness, in February, 1991, to June 20, 1991, when the Bureau Letter Inquiry was sent to the counsel shared by Ms. Shaw and Mr. Parker and retained by Mr. Parker for Ms. Shaw. The Bureau Letter Inquiry was faxed to Mr. Parker the same day. The Bureau Letter Inquiry provided concrete evidence of the seriousness of the Bureau concern about underlying real-party-in-interest allegations, a concern known to Mr. Parker for four months. Mr. Parker conferred with Sidley & Austin attorneys, including Mr. Wadlow, about the Shaw situation numerous times between February 25, 1991 and July 11, 1991, *i.e.*, three weeks after receipt of the Bureau Letter Inquiry.

428. And yet, on July 24, 1991, just one month after the Bureau Letter Inquiry and less than two weeks after speaking with Sidley & Austin again about the Shaw application, Mr. Parker filed the WHRC(TV) Application in which he failed to mention anything about fraud or disqualification in connection with the *San Bernardino Proceeding*.

429. The "disclosure" about the *San Bernardino Proceeding* contained in the WHRC(TV) Application was plainly misleading. Its opening clause -- "Although neither an applicant nor the holder of an interest in the applicant" -- was completely contrary to the holdings of Judge Gonzalez and the Review Board, both of which had found that Mr. Parker was ***the*** real-party-in-interest in SBBLP. 2 FCC Rcd at 6567 (¶57); 3 FCC Rcd at 4090-4091 (¶¶15-18). The suggestion that the "real-party-in-interest" issue was limited to the comparative issue ignored the facts that (a) the Review Board had expressly adopted Judge Gonzalez's findings and conclusions, which included disqualification of SBBLP, and (b) the Review Board, after considering, "in totality", the record compiled under the real-party-in-

interest issue, found "no error in the ALJ's core conclusion," 3 FCC Rcd at 4091 (¶18).

430. In the WHRC(TV) Application, Mr. Parker also failed to provide any indication that the *Mt. Baker Proceeding* included a finding that he had sought to deceive the Commission. Mr. Parker claimed to be unable to identify the drafter(s) of the "disclosures" in the WHRC(TV) Application.

431. Mr. Parker's gambit worked in the WHRC(TV) Application, which was routinely granted. He then used the same gambit, with the same misleading verbiage about the San Bernardino and Mt. Baker Proceedings, in the WTVE(TV), KVMD(TV) and KCBI Applications. It worked again in the first two. But in connection with the KCBI Application, the processing staff asked for more information concerning, *inter alia*, the *San Bernardino Proceeding*. In response, Mr. Parker signed and filed a plainly inaccurate and misleading amendment. That amendment stated that no basic qualifying issues had been sought or added with respect to, *inter alia*, the SBBLP application, when precisely the opposite was true. Mr. Parker was unable to provide any valid and credible explanation for the Dallas Amendment.

432. The evidence conclusively establishes that Mr. Parker repeatedly failed to report the adverse aspects of the Mt. Baker and San Bernardino Proceedings in a full, candid and forthright manner.

433. The KWBB(TV) and Los Angeles LPTV Applications contained no reference whatsoever to the *San Bernardino Proceeding*. The 1991-1992 applications relating to WHRC(TV), WTVE(TV), KVMD(TV) and KCBI did refer to the *San Bernardino Proceeding*, but only in an affirmatively misleading manner which appears to have been

intended to suggest that no disqualifying issue was involved in that case, precisely the opposite of the truth. The Dallas Amendment grossly misrepresented the history of the *San Bernardino Proceeding*.

434. None of Mr. Parker's applications, from the 1989 KWBB(TV) and Los Angeles LPTV Applications through the 1991-1992 WHRC(TV), WTVE(TV), KVMD(TV) and KCBI Applications, even suggested, much less described forthrightly, the facts and circumstances underlying the *Mt. Baker Proceeding* and the Commission's conclusion that Mr. Parker had there engaged in an effort to deceive the Commission.

435. All of the application forms used in Mr. Parker's applications, including the KWBB(TV) and Los Angeles LPTV Applications, asked whether any party to the application had been involved in any administrative proceedings concerning "fraud". Tr. 1945-1946. In all of Mr. Parker's applications, including the KWBB(TV) Application filed only eight months after the San Bernardino Review Board Decision, that particular question was answered in the negative. When asked in this hearing whether the Review Board had found him to have engaged in fraud, Mr. Parker continued the charade, answering, incredibly, "no". Tr. 1944.

436. Mr. Parker's less than candid "disclosures" were not the result of mere oversight. Mr. Parker was quite familiar with the decisions in both the *Mt. Baker* and the *San Bernardino* Proceedings. He had been active in Commission proceedings since the early 1980s. He knew the impact which those decisions would have on his qualifications to be a Commission licensee, particularly following the Bureau Letter Inquiry to Ms. Shaw. He knew or should have known that the cunning descriptions contained in his applications fell

far short of the disclosures required by the Commission.

437. Mr. Parker offered a variety of explanations for his "disclosures". The totality of the evidence firmly supports the finding that Mr. Parker's "explanations" are themselves nothing more than incredible, misleading, disingenuous efforts to minimize the significance of his misconduct.

438. He claimed repeatedly that the real-party-in-interest issue in the *San Bernardino Proceeding* was directed to Ms. Van Osdel, not to him. *See, e.g.*, Paragraph 343, above. This was based on the incredible notion that the real-party-in-interest issue involved only Ms. Van Osdel's failure to properly report Mr. Parker in the SBBLP application. *Id.* But that notion flies hard in the face of the language of the *San Bernardino Review Board Decision*, and it flies even harder in the face of the fact that Mr. Parker, ***not*** Ms. Van Osdel, prepared the SBBLP application. [79/]

439. Mr. Parker also claimed that he never held any interest in SBBLP, a claim which Mr. Parker seemed to view as somehow exculpatory. *E.g.*, Tr. 2008. Stating that "there are different levels of being a real party in interest", he opined that if he had "had 20 percent ownership in this application and I was hiding that and deceiving the Commission with regard to that interest, . . ., that would be one thing." Tr. 1967. He did not explain how that would be different from, much less worse than, his actual situation, in which he claimed not to own any interest in SBBLP, and yet had been found to be the actual, albeit undisclosed, controlling party in the applicant.

[79/] It is also inconsistent with the fact that, in his Supplemental Initial Decision in the *San Bernardino Proceeding*, Judge Gonzalez referred to the real-party-in-interest issue as the "so-called Mike Parker issue". *Id.* at 5334-5335 (¶¶16-18).

440. In any event, Judge Gonzalez and the Review Board both concluded that Mr. Parker *was* SBBLP, that Mr. Parker wielded control of SBBLP, even though he claimed not to hold any formal ownership interest. Mr. Parker's contrary assertions in the instant proceeding cannot be taken seriously. [80/]

441. Mr. Parker claimed that the *San Bernardino Review Board Decision* reversed Judge Gonzalez's disqualification of SBBLP. But the *San Bernardino Review Board Decision* cannot possibly be read to support that claim. The Board referred to SBBLP as a travesty and a hoax, and to Ms. Van Osdel as "merely a fig leaf for the true kingpin of [SBBLP], one Michael Parker". The Board concluded:

> Having reviewed, in totality, the underlying record on [the real-party-in-interest issue], we find no error in the ALJ's core conclusion that Van Osdel is neither the sole nor dominant management figure purported by [SBBLP], but a convenient vizard. . . . [SBBLP] is a transpicuous sham [citation omitted], and the ALJ justly rejected its attempted fraud.

3 FCC Rcd at 4091 (¶18). There is nothing in the *San Bernardino Review Board Decision* which could reasonably be read to constitute a reversal of Judge Gonzalez's disqualification of SBBLP. [81/]

442. Mr. Parker claimed that the San Bernardino settlement could not have been

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[80/] Mr. Parker testified:

> [N]o one has ever put up the thought that I have been found guilty of anything other than for purposes of the level of my activity with regard to [SBBLP], I was found a real party in interest.

Tr. 1945. This is akin to saying, "I was never found guilty of shooting anybody, I was just found guilty of pulling the trigger."

[81/] As is clear from the Review Board's reversal of the Sandino disqualification, 3 FCC Rcd at 4090 (¶14), when the Review Board chose to reverse or modify an ALJ's ruling, the Review Board did so clearly, expressly and unequivocally.

approved if SBBLP had been disqualified. RBI Exh. 46, p. 4; Tr. 2070. That claim is wrong. Since 1980 -- *i.e.*, for as long as Mr. Parker has been involved in broadcasting matters -- the Commission's policy has been precisely the opposite: disqualified applicants may be paid for the dismissal of their applications. *Allegan County Broadcasters, Inc.*, *supra*. The Review Board decision approving the San Bernardino settlement clearly reflects this policy. The Board focused specifically on whether there were "any basic qualifying issues extant ***against the prevailing applicant***". 5 FCC Rcd 6362 (¶3) (emphasis added). Even if Mr. Parker were not aware of *Allegan County* and its numerous progeny [82/], the Review Board's own language alerted him and any other reader of the limitations of the Review Board's decision.

443. Mr. Parker's ultimate excuse for his "disclosures" is that he relied on the advice of counsel. The evidence, however, establishes conclusively that that excuse is no more valid than any of his others.

444. First, while Mr. Parker repeatedly suggested that he relied on the advice of a number of different attorneys for the proposition that there were no outstanding issues about his qualifications, the only attorneys who represented him during the relevant time period were Mr. Kravetz, Mr. Mercer, and the Sidley & Austin attorneys, including Mr. Wadlow.

445. While Mr. Parker claimed that Mr. Kravetz was involved in the drafting of the "disclosure" concerning the *Mt. Baker* and *San Bernardino* proceedings in the WHRC(TV)

[82/] A Lexis shepardization of the *Allegan County* citation produced a listing of some 37 decisions in which the *Allegan County* decision was cited between 1980 and 1990. Obviously, *Allegan County* was not an obscure "purple cow" decision the existence of which was known only to the parties to the *Allegan County* case. To the contrary, it established a policy which was invoked repeatedly thereafter.

Application in 1991, Mr. Kravetz's flat-out denial of any such involvement eviscerates Mr. Parker's claim. Moreover, Mr. Kravetz indicated that, as of the preparation of the Dallas Amendment in October, 1992, Mr. Kravetz was not even aware of the real-party-in-interest issue in the *San Bernardino Proceeding*.

446. Mr. Mercer was not a communications attorney. Since Mr. Parker was himself experienced in Commission matters and was familiar with a wide range of communications attorneys, any reliance which Mr. Parker might have placed on communications-related advice from Mr. Mercer would have been questionable. There is in any event no evidence that Mr. Mercer did give Mr. Parker any such advice.

447. That leaves Mr. Wadlow and the Sidley & Austin attorneys. Mr. Wadlow did not corroborate Mr. Parker's claim. To the contrary, Mr. Wadlow could not recall ever advising Mr. Parker that the real-party-in-interest issue in the *San Bernardino Proceeding* had been resolved in his favor.

448. The only evidence, other than his own self-serving testimony, to which Mr. Parker was able to point in supposed support of his claim was the Wadlow Letter.

449. But the Wadlow Letter was on its face flatly and discernibly wrong, as Mr. Parker and Mr. Wadlow both were forced to acknowledge. [83/] Moreover, the circumstances in which it was prepared undermine any reliability it might otherwise arguably have had. As Mr. Parker was aware, the Wadlow Letter was thrown together, under pressure from Mr. Parker, in 45 minutes. Mr. Wadlow conceded the possibility that the

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[83/] While Mr. Parker claimed that no other counsel had disagreed with Mr. Wadlow's assessment of Mr. Parker's situation before the Commission, the Gaulke Letter establishes that his claim was not true.

substance of the Wadlow Letter was directed by Mr. Parker. Tr. 1866. The Wadlow Letter cannot legitimately be viewed as "advice of counsel" in any meaningful sense, and Mr. Parker cannot claim to have placed any legitimate reliance on it.

450. And whatever the legitimacy and/or seeming reliability of the Wadlow Letter as of its creation on February 18, 1991, within one week both Messrs. Parker and Wadlow had been alerted, through Ms. Shaw's situation, that the Bureau had serious concerns about real-party-in-interest allegations even if those allegations had been rejected by an administrative law judge. Thus, even if Messrs. Parker and Wadlow really did believe, as of February 18, 1991, that the real-party-in-interest issue in the *San Bernardino Proceeding* had somehow, some way, been resolved favorably to Mr. Parker, they both had learned by February 25, 1991, one week later, that such favorable resolution did not in and of itself guarantee a clean bill of health as far as the Bureau was concerned.

451. If Ms. Shaw was having problems in connection with real-party-in-interest allegations, Mr. Parker could expect problems as well. The Sidley & Austin bills reflect repeated conversations between Mr. Parker and Mr. Wadlow concerning the Shaw matter after February 18, 1991, as would be expected in such circumstances. Oddly, Mr. Wadlow and Mr. Parker professed not to recall anything at all about any conversations they had concerning the Shaw matter. How could that be?

452. Mr. Parker's recollection concerning the Shaw matter was apparently refreshed at least to some degree, because during cross examination by the Bureau Mr. Parker stated that

> when the review board approved the settlement and San Bernardino got $850,000 in a settlement, I believed that all the adverse rulings had been

> resolved, much like the letter [*i.e.*, Judge Luton's decision holding Ms. Shaw to be qualified] that was shown to me a few minutes ago resolved the issues on the dismissal of Shaw's application.
>
> * * *
>
> And when I talked to Mr. Wadlow, it was like that had happened [*i.e.*, Judge Gonzalez's disqualification of SBBLP had been vacated], and I believe that he believed it did happen, and that the practical effect was that it had happened, but there wasn't actually the language like there was in the Shaw letter.

Tr. 2070. An inference obviously to be drawn from this testimony is that Mr. Parker ***was*** aware of the clean bill of health issued to Ms. Shaw by Judge Luton and felt that he could argue that the Review Board's disposition of the *San Bernardino Proceeding* was somehow analogous. But if that was Mr. Parker's plan, it evaporated as of February 25, 1991, when Mr. Parker learned that the Bureau intended to inquire into Ms. Shaw's real-party-in-interest issues notwithstanding the clean bill of health she seemed to have received. In any event, Mr. Parker's testimony certainly suggests that he ***was*** very much aware of the Shaw situation and its potential impact on his own situation.

453. Mr. Parker's "advice of counsel" defense runs further aground in connection with the Dallas Amendment. That amendment was factually inaccurate. The sole person responsible for that inaccuracy was Mr. Parker, who provided (or caused to be provided) to Mr. Kravetz the information in the amendment, and who reviewed and signed the amendment and authorized its submission to the Commission. The decision to misstate the facts in the Dallas Amendment cannot be attributed to any advice that Mr. Kravetz gave, because Mr. Parker did not bother to tell Mr. Kravetz the truth. Mr. Kravetz testified that, had he known about the *San Bernardino Proceeding*, he would have prepared a substantially different amendment. However, since he was relying on information provided to him by

Mr. Parker, and since Mr. Parker raised no objection to the amendment as drafted, Mr. Kravetz had no reason to believe that the amendment he drafted was wrong.

454. Mr. Parker, by contrast, had every reason to know that that amendment was completely wrong.